

ORDINANCE NUMBER 1119

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, APPROVING ORDINANCE AMENDMENT 02-0034 TO AMEND THE ZONING ORDINANCE, ADDING CHAPTER 19.85 TO THE ZONING CODE TO PROVIDE STANDARDS FOR THE REGULATION OF WIRELESS TELECOMMUNICATION FACILITIES

WHEREAS, the City Council approved the Zoning Ordinance in November 1997; and,

WHEREAS, the Zoning Ordinance does not contain specific development standards that address wireless telecommunication facilities; and,

WHEREAS, two wireless telecommunication facilities have been approved in 2002; and,

WHEREAS, it is likely the City will receive additional requests to develop wireless telecommunication facilities; and,

WHEREAS, standards in the Zoning Ordinance for wireless telecommunication facilities will provide guidance to businesses requesting such facilities; and,

WHEREAS, standards in the Zoning Ordinance for wireless telecommunication facilities will provide a more thorough and efficient means to evaluate these requests and assure community values are maintained; and

WHEREAS, the City of Perris General Plan promotes visual quality and compatibility between land uses, and the regulation of wireless telecommunication facilities by the Zoning Code will help implement the General Plan; and,

WHEREAS, on February 19, 2003, and April 2, 2003, the Planning Commission conducted duly noticed public hearings on this draft Zoning Ordinance Amendment, considered testimony and materials in the staff reports and accompanying exhibits, and recommended approval of the Draft Zoning Ordinance Amendment to the City Council; and,

WHEREAS, on May 27, 2003, the City Council conducted a duly noticed public hearing on this draft Zoning Ordinance Amendment, considered testimony and materials in the staff reports and accompanying exhibits; and,

WHEREAS, the City has complied with the California Environmental Quality Act; and,

WHEREAS, all legal prerequisites for the adoption of this Resolution have occurred;

NOW, THEREFORE, THE CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

Section 1. The above recitals are all true and correct.

Section 2. The City Council finds that this project is exempt from environmental review under the general rule that the Draft Zoning Ordinance Amendment has no possibility of a significant effect on the environment in that it provides environmental protection and standards where none now exist, as per Section 15061(b)(3) of the California Environmental Quality Act Guidelines. Potential impacts of future proposals for wireless telecommunications facilities will be considered through the review process established by the Draft Zoning Ordinance Amendment.

Section 3. The City Council finds the Draft Zoning Ordinance Amendment consistent with the goals and polices of the General Plan by implementing standards to promote visual quality and land use compatibility.

Section 4. The City Council **HEREBY FINDS AND DETERMINES** that:

- A. The proposed amendment is consistent with the General Plan objectives, policies, and programs.
- B. The project will not adversely affect the public health, safety, and welfare.
- C. The proposed project will not result in a significant adverse effect on the environment.

Section 5. Approval. Chapter 19.85 (Wireless Telecommunication Facilities) of the Perris Zoning Ordinance is hereby added to read in its entirety as stated in Exhibit "A", a copy of which is attached hereto.

Section 6. The Mayor shall sign and the City Clerk shall certify passage and adoption of this Ordinance, and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty days after its final passage.

Attachments:

Exhibit "A": Amended Chapter 19.85 of the Zoning Ordinance

ADOPTED, SIGNED and APPROVED this 10th day of June, 2003.

Mayor, Daryl R. Busch

ATTEST:

City Clerk, Margaret Rey

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Margaret Rey, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Ordinance Number 1119, introduced at a regular meeting of the City Council of the City of Perris held on the 27th day of May, 2003, was duly and regularly adopted by the City Council at a regular meeting thereof held on the 10th day of June, 2003, and that it was so adopted by the following called vote:

AYES: Yarbrough, Motte, Rogers, Busch
NOES:
ABSENT: Landers
ABSTAIN:

City Clerk, Margaret Rey

Exhibit "A"
(ORDINANCE NUMBER 1119)

CITY OF PERRIS

CHAPTER 19.85

WIRELESS TELECOMMUNICATION FACILITIES

Section	
19.85.010	PURPOSE
19.85.020	DEFINITIONS
19.85.030	APPLICABILITY
19.85.040	STANDARDS FOR WIRELESS TELECOMMUNICATION FACILITIES
19.85.050	LOCATIONAL PREFERENCE
19.85.060	APPLICATION REQUIREMENTS
19.85.070	REQUIRED FINDINGS
19.85.080	APPEAL
19.85.100	FACILITY <u>MAINTENANCE AND REMOVAL</u>

- A. The purpose of these requirements is to regulate the location and design of Wireless Telecommunications Facilities as defined herein and to facilitate the orderly development of these facilities within the City of Perris. These requirements are also intended to promote the public health, safety, convenience, and general welfare of the City's residents, and to protect property values and the aesthetic appearance of the City, by preserving views from obtrusive and unsightly Wireless Telecommunication Facilities and Accessory Equipment.
- B. In adopting and implementing these requirements, it is the intent of the Perris City Council to create reasonable regulations in conformance with the provisions of the Telecommunication Act of 1996.
- C. These requirements are intended to supersede any applicable provisions of the Perris Zoning Code pertaining to Wireless Telecommunication Facilities and to establish minimum requirements for the regulation of Wireless Telecommunications Facilities.

19.85.20 DEFINITIONS.

For purposes of this Ordinance, the following words, terms, phrases and their derivations shall have the meanings given herein. If a definition is not listed in this Section of the Code, Section 19.08 of the Perris Zoning Code shall be referenced.

- A. "Accessory Equipment" means any equipment installed, mounted, operated or maintained in close proximity to a Wireless Telecommunication Facility to provide power to the Facility or to receive, transmit, or store signals or information received by or sent from a Facility.
- B. "Antenna Structure" means an antenna, any structure designed specifically to support an antenna, and/or any appurtenances mounted on such structure or antenna.
- C. "Colocation" or "Colocated" means the location of multiple antennas which are either owned or operated by more than one (1) service provider at a single location and mounted to a common supporting structure, wall or building.
- D. "Commercial Mobile Service" means any mobile service that (1) is offered in return for monetary compensation, and (2) is available to the public or a substantial portion of the public.
- E. "Constructed" or "Construction" means erecting, locating, mounting or modifying.
- F. "Ground Mounted" means a Wireless Telecommunications Facility that is mounted to a pole or other freestanding structure that is specifically constructed for the purpose of supporting an antenna.
- G. "Mounted" means any manner of attachment, support, or connection, whether on ground or on a structure.
- H. "Non –Stealth Facility" means any Facility that is not architecturally integrated with the building or structure to which it is attached or any facility that is not disguised to appear as another natural or artificial object camouflaged shall be considered Non-Stealth.
- I. "Roof Mounted" means a Wireless Telecommunication Facility that is mounted on any structure that is not specifically constructed for the purpose of supporting an antenna, in any manner that does not satisfy the definition of Wall Mounted, and is typically mounted on the roof of a building.

- J. "Stealth Facility" means any Wireless Telecommunications Facility which is disguised to appear as another natural or artificial object that exists in the surrounding environment or which is architecturally integrated into a building or other structure. They may include, but are not limited to, architecturally screened roof mounted antenna, façade-mounted antenna as design features, clock towers, flagpoles, church crosses, "tree" poles (monopalms, monopines).
- K. "Wall Mounted" means a Wireless Telecommunication Facility that is mounted on any vertical surface or nearly vertical surface of a building or other existing structure that is not specifically constructed for the purpose of supporting an antenna i.e., the exterior walls of a building, an existing parapet, the side of a water tank, the face of a church steeple, or the side of a freestanding sign such that the highest point of the Facility is at an elevation equal to or lower than the highest point of the surface on which it is mounted.
- L. "Wireless Telecommunications Facility" or "Wireless Facility" or "Facility" or "Facilities" means an Antenna Structure and any Accessory Equipment located within the City limits and that is used in connection with the provision of Commercial Mobile Services.

19.85.030 APPLICABILITY.

- A. All Wireless Telecommunications Facilities, which are constructed within the City of Perris on or after the effective date of this Ordinance, shall comply with this Chapter.
- B. All Wireless Telecommunication Facilities which were Constructed or for which a valid building permit was issued or a Conditional Use Permit was approved by the City of Perris prior to the effective date of this Chapter may proceed with the Wireless Facility as approved. The Wireless Facility shall be subject to the regulations and guidelines of Section 19.80 of the Perris Zoning Code, regulating nonconforming structures and uses, except that a Colocation request can be considered by the City subject to a Conditional Use Permit for existing legal nonconforming poles.
- C. All Wireless Telecommunication Facilities for which building permits and any extension thereof have expired, but which have not been Constructed shall comply with the provisions of this Chapter.
- D. All Wireless Telecommunication Facilities Constructed, maintained or operated in violation of applicable laws, ordinances, or other regulations shall be considered an illegal nonconforming structure and use and shall be subject to abatement as outlined in the Perris Municipal Code.
- E. The following uses shall be exempt from the provisions of this Chapter, so long as the Antenna Structure complies with all other requirements of the Zoning Code:

1. Any Antenna Structure designed and used solely to receive UHF, VHF, AM, and FM broadcast signals from licensed radio and television stations.
2. Any Antenna Structure that is designed and used solely in connection with authorized operations of an amateur radio station licensed by the FCC (i.e., a "HAM" radio transmission).
3. Any Antennae Structure measuring one (1) meter or less in diameter and used solely for connection with satellite dish television services.

19.85.040 STANDARDS FOR WIRELESS TELECOMMUNICATION FACILITIES.

All Wireless Facilities shall be Constructed, operated and maintained at all times in compliance with this Chapter and all applicable laws and regulations of the City, County, State and Federal government.

A. Only Stealth Wireless Facilities shall be permitted as set forth in the following table. Non-Stealth Wireless Facilities shall be prohibited are not permitted in any zoning district:

Zoning District	Criteria	Requirements
BP, LI, GI	Stealth, within height limits for zone	Administrative Development Permit Plan Review (1) (4)
CN, CC, PO	Stealth, wall or roof mounted, completely hidden, within height of zone. (3)	Administrative Development Plan Review (1) (4)
P	Any Wireless Request	Conditional Use Permit
All Other Districts		Not Permitted (2)

Notes:

- (1) Any Wireless Facility request that is unable to achieve the criteria detailed in the table above shall be processed as a Conditional Use Permit.
- (2) Any Wireless Facility located in any Residential District shall be prohibited, with the exception of a light standard mounted antenna, subject to a Conditional Use Permit and the standards detailed in footnote number (4).
- (3) Roof or Wall mounted Wireless Facilities shall be completely screened from public view in a manner that is consistent with the buildings existing architectural style, color, or materials.

(4) A Light Standard or Traffic Control Standard mounted Wireless Facility may be permitted subject to a Conditional Use Permit and the following standards. The Wireless Facility shall be designed to be unobtrusive, in the opinion of the City, and shall locate equipment cables within the light standard or traffic control standard. All related electronic equipment shall be integrated with other existing equipment, or enclosed within a wall, or where possible, placed underground.

B. General Development Requirements:

A Wireless Facility shall comply with each of the following requirements:

1. A Facility shall not bear any signs or advertising devices other than certification, public safety, warning, or other required seals.
2. Any and all Accessory Equipment, or other equipment associated with the operation of the Facility, including but not limited to transmission cables, shall be located within a building, a walled enclosure, or underground vault. The design shall be in a manner that complies with the development standards of the zoning district in which such equipment is located.
3. If Accessory Equipment is located above ground in a walled enclosure, it shall be visually compatible with surrounding buildings and be made of solid masonry block wall, or another approved material, in a design theme appropriate for the area. The walled enclosure shall be constructed and maintained to screen the Accessory Equipment from view.
4. Exterior finishes for a Facility and Accessory Equipment shall consist of non-reflective material(s) and painted, screened, or camouflaged to blend with the materials and colors of surrounding buildings, structures, and/or landscaping.
5. Wall Mounted and/or Roof Mounted Facilities shall be compatible with the architecture, color, texture, and materials of the building or structure to which it is attached so as to appear a natural aesthetic extension of the building or structure design.
6. Facilities may not be illuminated unless specifically required by the Federal Aviation Administration or other governmental agencies.
7. The Facility shall be designed for Colocation, unless it is found that current technological requirements preclude Colocation. The Facility owner and operator, and the owner and if applicable lessee of property on which the facility is located however shall record a deed restriction or other approved commitment consenting to future Colocation of other Facilities. Such consent shall be sufficient to be applicable to future Facility owners and operators, and property owners and lessees.

8. All applicable building, construction, and business permits shall be required prior to Construction of a Facility.
9. A Facility shall not interfere with ingress or egress to, or with circulation within the property on which it is located.
10. A Facility and any Accessory Equipment shall comply with the setback and height requirements for the zone in which it is located.
11. A Facility may be subject to right of way improvements at the discretion of the City Engineer.
12. A Facility shall not be located in a required parking area, vehicle maneuvering area, vehicle/ pedestrian circulation area, or area of landscaping such that it interferes with, or in any way impairs, the utility or intended function of such area.
13. No temporary wireless facilities shall be permitted within the City, except to allow for signal strength testing in conjunction with a submitted application.
14. If a ground mounted wireless antenna is proposed to resemble a “tree”, other similar tree species shall be planted adjacent to and/or around the facility to enhance the concealing effect.
15. Accessory equipment shall mitigate all noise to existing ambient levels.

C. Specific Development Requirements:

Ground Mounted Facility

1. A Ground Mounted Facility shall be secured from access by the general public with a decorative fence or wall, as determined by the approving authority. On the decorative fence or wall landscape vines shall be provided to prevent graffiti. If vines are not provided clear anti-graffiti material shall be applied to all areas subject to possible graffiti, unless it is demonstrated that adequate security and maintenance will assure prevention of graffiti.
2. A landscaped planter (minimum 3-feet) shall be located and maintained adjacent to the outside of the decorative wall or fence that secures a Ground Mounted Facility. Landscape trees that frame and soften the visual impact of a Ground Mounted facility shall be provided within the landscape planter

19.85.50 LOCATIONAL PREFERENCE

The location of a Facility shall conform to the following in order of preference:

- A. Located five hundred (500) feet away from any property containing a residential structure, or zoned for residential use;
- B. Colocated with an existing Facility to make the existing and proposed Colocated facilities Stealth;
- C. Located in an industrial zoning district;
- D. Located in a commercial zoning district;
- E. Attached to an existing structure such as a building, church steeple, utility.

19.85.060 APPLICATION REQUIREMENTS.

A Wireless Telecommunications Facility shall require a Conditional Use Permit application. Each applicant applying for a Conditional Use Permit shall submit a completed application in accordance with the requirements set forth in Section 19.54 of the Perris Zoning Code, and such additional requirements as are made applicable by this Section.

Any request for a Wireless Facility that exceeds the height by up to fifty (50%) percent for the district where the Wireless Facility will be located shall be processed as a Conditional Use Permit. Where possible, the Wireless Facility should be hidden within an architectural feature, such as a clock tower or cupola. Along with the standard findings for a Conditional Use Permit, the following finding shall be addressed:

That based upon a RF report prepared by a qualified RF Engineer and reviewed by the City, an antenna build at the Zoning District limit would obstruct the antenna's reception window or otherwise excessively interfere with reception and such obstruction or interference involves factors beyond the applicant's control. All applications for Conditional Use Permits for Non Stealth Facilities shall be subject to a public hearing by the Planning Commission.

In addition to the City submittal requirements for a Conditional Use Permit the following information shall be submitted:

- A. The proposed location of the Wireless Telecommunications Facility and all alternative locations considered for the Facility, including the distance to the nearest property containing a residential structure and zoned for residential use.
- B. Written document explaining the rationale for selection of the proposed location from the alternative sites and explaining specific reasons for rejecting each alternative site.

- C. A discussion and map of Facility locations anticipated to complete the applicant's projected ultimate network of Facilities within the city and within 2 miles of City Boundaries. The discussion shall include to the best extent possible an indication of Facility networks needed by other providers of Commercial Mobile Service and Colocation opportunities. The discussion shall include the applicant's Facility design theme for the network, and other information that allows review and evaluation of the proposal's part in an ultimate network of Facilities, and Colocation opportunities.
- D. A map showing the area within the City of Perris that will be serviced by the proposed Facility and the nature of the service to be provided by the Facility
- E. A description of the any anticipated noise, and light emissions from the proposed Wireless Facility; and a description of the typical maintenance and service requirements and schedule for the Wireless Facility.
- F. Elevations and plan views of the Wireless Telecommunications Facility, Accessory Equipment and all other proposed site modifications with dimensions identified
- G. The height of any existing or proposed structure(s)
- H. Location of existing or proposed easements on the property
- I. A radio-frequency (RF) report prepared by a qualified RF engineer acceptable to the City to demonstrate that the proposed Facility, as well as any Colocated Facilities, complies with current Federal RF emission standards. This RF report shall also include signal strength exhibits
- J. A computerized visual assessments or other equivalent exhibits acceptable to the Director showing the before and after visual appearances of the proposed Facility.
- K. If the Facility is not proposed to be Colocated, or not designed for Colocation, the applicant shall provide information as required by the Director, including a report by a qualified engineer, demonstrating why the Facility cannot be Colocated.
- L. Prior to final sign-off of Building Permits, a RF report shall be prepared after the initial installation and once the site is operational in order to demonstrate that that the Wireless Facility is in compliance with Federal Government safety standards.
- M. Any other necessary information as may be required by the Director.

19.85.70 REQUIRED FINDINGS FOR WIRELESS TELECOMMUNICATION FACILITIES

Wireless Telecommunications Facilities Findings. In addition to the required findings for Conditional Use Permits contained in City of Perris Zoning Code, the following Findings are required for every Wireless Telecommunications Facilities:

- A. That the proposed Facility will be an enhancement to the City due to its ability to provide additional communication capabilities and;
- B. That the proposed Facility will be a Stealth Facility and be aesthetically integrated into the design and landscaping of its site and surrounding land uses and;
- C. The proposed Facility has been evaluated in the context of the ultimate anticipated network of Facilities of both the applicant and other Commercial Mobile Service providers so as to reduce the number of Facilities needed to provide service to the City of Perris and;
- D. The proposed facility has been located and designed for Colocation to the maximum extent possible and;
- E. That the proposed Facility will comply with FCC regulations regarding interference with the reception or transmission of other Wireless Service signals within the City and surrounding community and;
- F. That the proposed Facility will operate in compliance with all other applicable Federal regulations for such Facilities, including safety regulations and;
- G. That the public need for the use of the Facility has been documented.

19.85.080 APPEAL.

All appeals shall be processed in accordance with the Perris Zoning Code including required fees.

19.85.100 FACILITY MAINTENANCE AND REMOVAL.

- A. Maintenance Agreement
The operator of a lawfully approved Telecommunication Facility shall, prior to issuance of building permits, enter into a "Maintenance and Facility Removal Agreement." This Agreement shall be in the form and manner approved by the City Attorney and shall be duly recorded in the office of the County Recorder. The minimum provisions of this agreement shall include maintenance of site landscaping, paint and surface treatments, litter removal, fence repair, fire prevention and general maintenance to assure a clean, sanitary, and first-class condition free of any hazards to persons.

B. Discontinued Use.

The operator of a lawfully erected Facility, and the owner of the premises upon which it is located, shall within 5 business days notify the Director in writing in the event that use of the Facility is discontinued for any reason. For purposes of this paragraph, a discontinued use shall be permanent unless the Facility is likely to be operative and used within the immediately following ninety (90) day period. In the event that discontinued use is permanent, then the owner(s) and/or operator(s) shall promptly remove the Facility, repair any damage to the premises caused by such removal, and restore the premises as appropriate so as to be in conformance with applicable zoning codes. All such removal, repair and restoration shall be completed within ninety (90) days after the use is discontinued, and shall be performed in accordance with all applicable health and safety requirements.

C. Abandonment.

A Facility that is discontinued, inoperative or unused for a period of six (6) continuous months shall be deemed abandoned. An abandoned Facility shall be a nuisance, and subject to abatement for nuisances as specified in the Perris Municipal Code.